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June 30, 2004

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TECHNOLOGY CENTER R3700

Attention Kien T. Nguyen, Primary Examiner
Commissioner For Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
Telephone: 703-308-2493

Dear Examiner Nguyen:

Re: Application/Control Number: 10/701,202; Art Unit: 3712

Thank you for your Office communication of 06/25/2004.

I have noted your disposition of claims as follows,

- 2a) This action is non-final
- 4) Claims 1-4 are pending in the application.
- 6) Claims 1-4 are rejected.
- 7) Claims 1-4 are objected to.

And I have perused your attached memorandum explaining your reasons.

We believe claims 1-3 should be allowed, and we hope you will be of the same opinion once you have an opportunity to consider our reasons, as set out below.

Drawings

Claim 4 re wheel assemblies:

Benjamin, the applicant, has chosen to cancel claim 4. The drawing (Figure 2) and the language in the specification have been corrected to conform with this change. We have deleted the wheel assemblies (216), and have changed former number 218 to 216. The corrected drawing (Figure 2) is enclosed.

Claim Objections

“Hinging Chair Stand” has been changed to “Hanging Chair Stand” to be consistent with the title “Hanging Chair Stand” as set out in the specification. This was an inadvertent computer error which has now been corrected. A corrected copy of the specification is enclosed.

Claim Rejections - 35 USC Section 102(b) re “public use or on sale in this country, more than one year prior to the date of application....”

History shows that the “hanging chair stand” (hereinafter referred to as the Xchair) was not “in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.” The filing date was 11/04/2003.

Your memorandum cites the reference in the Casual Living Magazine dated 10/7/2002. This is a trade publication for the leisure furnishings industry. A representative from that magazine approached me while at a trade show in Chicago in the month of September, 2002, where we were displaying the Xchair as a future product of Green Eggs & Hammocks and to take orders for spring sales in 2003. We had not yet begun manufacturing the Xchair and had only a couple of prototypes for display purposes at that time. The trade magazine representative asked if we had anything new and interesting in the hammock world which could be announced in her magazine. I gave her a copy of a press release telling her that the Xchair was not yet available for sale but that it would be in the near future. The announcement should have appeared in the January, 2003 issue as I had anticipated, and as originally planned by the editor, but for some reason it showed up in the October, 2002 issue.

Manufacturing of the Xchair began in October of 2002. The first retail sales were made in early December, 2002, at the Westgate Mall in Amarillo, Texas. The first wholesale purchase order for the Xchair came to us on January 11th, 2003, and we shipped out that order on February 1, 2003. A copy of that purchase order is enclosed. This was our first wholesale. Prior to December, 2002, the Xchair was not sold nor "in public use."

Because the first sales were in early December, 2002, these sales were well within the one year of "the date of application for patent in the United States," therefore we respectfully submit that it is not proper to reject claims 1-3 under 35 USC Section 102 "based upon a public use or sale of the invention." As noted, the Xchair was announced in the trade magazine on October 7, 2002. However, we respectfully submit that the announcement in the trade magazine was not sufficiently definitive that it could be reasonably said that the Xchair was "described in a printed publication" within the intent and meaning of 35 USC Section 102.

Claim Rejections - 35 USC Section 103 re obviousness

While differences alone will not necessarily create unobviousness, if the differences are sufficiently great, they can create unobviousness. We respectfully submit that this is the case with the Xchair when compared to Bonnell U.S. Patent 3,344,443. Some of the differences are as follows:

1) The most significant difference is that Bonnell is effectively a "single point" hammock stand, whereas the Xchair is a true "two-point" hammock stand. (See pages 3-4 of the specification for a description of the difference between a "single point" and a "two-point" hammock stand.) This leads to a difference in kind, not just a difference in degree.

Bonnell is effectively a "single point" hammock chair stand. It is true that there are two arm portions (Figure 3) of the stand (2), and two arm portions to the chair (3). However, the arm portions on the stand (2) and the arm portions on the chair (3) both converge at the top and come together, so that the chair (3) is effectively suspended from a single point.

As a result, the Bonnell chair could not function as a true hammock sling stand. Bonnell (Figure 2) shows a seat-sling (9) encircled by a rigid tubular frame (6). In the absence of the rigid frame (6) if a two-point hammock sling were suspended from the top of the Bonnell stand (4) a person sitting in a two-point hammock sling would be squeezed beyond discomfort.

By comparison the Xchair support members (200 and 202) are coupled at the intermediate section (208A and 208B) (not the upper section as in Bonnell). The separate support members

then arch over and spread out from each other to accommodate a true two-point hammock sling. The separated support members (200 and 202) prevent the hammock sling from collapsing, and therefore the occupant is not squeezed.

Thus, functionally, the two stands are dramatically different. Bonnell supports a single-point hammock sling. Xchair supports a two-point hammock sling.

2) The dynamics of the two stands are also very different. That is, the configuration of Bonnell is such that the center of gravity of the occupant requires a support bar (8) to keep the stand in balance.

By comparison, the Xchair suspends the hanging chair in such a way that the center of gravity of the occupant is counterbalanced by the orientation of the legs and upper arms without an additional rear support member as shown in the Bonnell patent (8).

3) With regard to obviousness, please note the comment on page 5, paragraph 3, of the specification regarding prior art two point stands: "... one can easily see from Illustrations ... that prior art two point stands are merely a version of the full-length hammock support stand. That is, ... Illustrations ... show that each of these prior art stands have been made by folding up, or shortening, a full-length hammock support stand, thereby converting it to hold a hanging chair." This process describes the Bonnell stand. By concept it is effectively made by "folding up ... a full-length hammock support stand," coupled at the top (4), and at the bottom with a cross-bar (8)

By contrast the Xchair is constructed from two separate and separated support members and feet, coupled only at one point, namely at the intermediate section (208A & 208B).

By comparison the Xchair is, in a sense, the complete converse to Bonnell. A comparison of the two side-by side shows they are not only very different in concept and configuration, but that they are very different functionally.

Thus, the Xchair is not just different, but it is so dramatically different in kind that it cannot reasonably be said that Bonnell anticipates the Xchair.

When compared against all prior art, we respectfully submit that the Xchair meets the unobvious test. We respectfully submit that it is not proper to reject claims 1-3 under 35 USC Section 103. Accordingly, for the foregoing reasons, we request that claims 1-3 be allowed.

We appreciate your attention and cooperation. We also thank you for your good work in turning up the prior art made of record but not relied upon. It is interesting and fascinating to consider and compare what others have created.

Thank you for your help.

Sincerely,



Benjamin M. Lee



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Shipping Address

Scarborough Fair
 Debi Mathews
 1180 Main St ext.
 ARDELA SPRINGS, MD
 Rte 50 at 9 mile marker
 837 410-749-7979

Order Date: 1/11/2003

Associate: abbey

SubTotal: 169.00

Ship Date: 2/1/2003

Tax Area:

0.000 % Tax: 0.00

Ship Method:

Cust PO#:

Shipping: 41.08

Comment:

JUL 12 2004

Total: 210.08

Terms: Cash

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Deposit Balance: 0.00

Total Due By: 3/31/2003

Balance Due: 0.00

		Ordered	Sent	Qty Due	Cost	Ext. Cost
PB	Xchair Frame	Pearl	1	1	85.00	85.00
CAP	Deluxe Chair Hammock	Apple	1	1	43.00	43.00
KI	KI Suspension Kit		1	1	6.00	6.00
SAP	Xchair Seat	Apple	1	1	35.00	35.00

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allow frame

apple seat

not ship until apple available



Patent Application of
Benjamin M. Lee
for

HANGING CHAIR STAND